



January 23, 2001

Mr. Stephen R. Zastrow  
Legal Advisor  
Corpus Christi Police Department  
321 John Sartain Street  
Corpus Christi, Texas 78401

OR2001-0238

Dear Mr. Zastrow:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 143452.

The City of Corpus Christi (the "city") received a request for background information obtained on the requestor including the following:

- (1) files compiled by the Corpus Christi Police Department and forwarded to Dr. Koch after a civil service commission hearing;
- (2) a copy of Dr. Koch's interpretation of psychological test results as provided to Chief Alvarez;
- (3) a list of questions asked by Dr. Koch of the requestor during the interview portion of the psychological exam, and the requestor's responses as recorded by Dr. Koch on paper;
- (4) a copy of the psychological examination results; and
- (5) a copy of the taped civil service hearing held on July 13, 2000.

You state that you have provided information responsive to request items one and two. We also assume that you have released a copy of the taped civil service hearing because you have not requested a decision for this requested item. *See* Gov't Code §§ 552.301, .302. You claim that request items three and four are not "public information" under section 552.002 of the Government Code. We have considered your arguments.

Section 552.002 of the Government Code defines public information as “information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it.” Thus, information that is collected, assembled, or maintained by a third party may be subject to disclosure under chapter 552 of the Government Code if a governmental body owns or has a right of access to the information. *See* Open Records Decision Nos. 462 (1987), 445 (1986). *Cf.* Open Records Decision No. 499 (1988).

You explain that the city contracts with a private local psychologist to perform psychological testing and evaluations of applicants for the position of police officer. You have provided a copy of the contract between the city and the psychologist. You state that the city’s only interest in the evaluation process is the psychologist’s professional evaluation and that the city does not obtain, retain, or maintain any copies of the tests results. Further, you state that the test results are the property of the psychologist and the city does not own or have a right of access to the test results. The submitted contract does not address access to the test results, but merely provides in Section 1 that the “psychologist shall provide services and materials as directed by the City’s Police Chief according to the requirements of the police department[.]” Based on your representation that you do not own or have a right of access to the test results other than the professional evaluation which you indicate you have released, we agree that request items three and four are not “public information” under section 552.002, and, therefore, not subject to the Public Information Act.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body

fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jennifer H. Bialek  
Assistant Attorney General  
Open Records Division

JHB/er

Ref: ID# 143452

cc: Mr. Thomas Michael Fry  
6301 Meadowvista, #1212  
Corpus Christi, Texas 78414